

EXECUTIVE OFFICER'S SUMMARY REPORT
9:00 a.m., March 24, 2004
North Coast Regional Water Board
Hearing Room
5550 Skylane Boulevard, Suite A
Santa Rosa, California

ITEM: 5

SUBJECT: **PUBLIC HEARING TO CONSIDER ADOPTION OF A NEGATIVE
DECLARATION AND A CATEGORICAL WAIVER FOR TIMBER
HARVESTING ACTIVITIES ON FEDERAL LANDS.**

The North Coast Regional Water Quality Control Board (Regional Board), in accordance with CWC section 13269, waived waste discharge requirements for timber harvest activities in 1987 as set forth in Regional Board Resolution No. 87-113. This resolution included timber harvest plans and timber sales.

Amendments to CWC Section 13269 (Senate Bill 390) provide that these waivers expired effective January 1, 2003, and that new waivers of waste discharge requirements for specific types of discharges must be renewed every five years.

The Regional Board, in compliance with CWC section 13269, reviewed the previously issued categorical waiver for timber harvest activities (Resolution No. 87-113) and adopted Order No. R1-2002-0109 Interim Categorical Waiver for Discharges Related to Timber Operations in the North Coast Region on December 10, 2002. Order No. R1-2002-0109 has sunset and has been replaced with Order No. R1-2003-0116, which was adopted on November 5, 2003. Order No. R1-2003-0116 exempts timber operations conducted pursuant to the Z'berg-Nejedly Forest Practice Act (Public Resources Code section 4511 et seq.) from waste discharge requirements except as otherwise specifically provided within that Order. Order No. R1-2003-0116 also exempts silvicultural activities on National Forest System lands except as otherwise provided within that Order.

On August 12 and 13, 2003, and again on January 7, 2004, the State Water Resources Control Board (State Water Board) conducted a hearing and a workshop, respectively, regarding timber harvest waivers from the North Coast Region, the Central Valley Region and the Lahontan Region. That hearing was held on petitions of waivers for timber operations filed by the timber industry and environmental groups. The State Water Board received much testimony, has ruled on the Central Valley Region and Lahontan Region waivers in January 2004 and is currently reviewing Order No. R1-2003-0116. To date, the State Water Board has not provided policy direction to the Regional Board on how to proceed. It is anticipated the SWRCB will issue a revised draft order on or about March 1, 2004, and issue an order at the March 18, 2004 SWRCB meeting. It is further anticipated, based on the SWRCB's December 2003 draft order, the SWRCB will likely remand the issue back to the Regional Board.

Consequently, Regional Board staff have produced a tentative order for the Regional Board's consideration. The tentative order, Order No. R1-2004-0015, applies to timber harvest activities conducted on federal land by the United States Department of Agriculture, Forest Service (USFS)¹.

The tentative order is very similar to the successful approach of the Central Valley and Lahontan Regional Board's categorical waiver for USFS timber harvest activities. The tentative order differs from Order No. R1-2003-0116 in several respects, but the structure and results are similar. For example, both orders contain eligibility criteria, conditions, causes for termination and provisions for to cover activities that were covered under previous orders. Another similarity is that the tentative Order No. R1-2004-0015 exempts federal projects from waste discharge requirements provided the projects meet the eligibility criteria and comply with the conditions.

To prevent duplicative Regional Board orders, the tentative order also rescinds and replaces the specific sections of Order No. R1-2003-0116 that pertain to the USFS.

The Regional Board, acting as the lead agency for this project under the California Environmental Quality Act (CEQA), has prepared a proposed Negative Declaration and conducted an Initial Study in accordance with the California Code of Regulations. On February 13, 2004, copies of the proposed Negative Declaration, the Initial Study and the tentative Order were transmitted to the State Clearinghouse pursuant to CEQA. In addition a public notice for this item was published in the major newspapers in the north coast region. All agencies and persons known to be interested in this matter have been properly notice. The Negative Declaration, Initial Study, tentative order and public notice are included as part of the agenda package for this item.

PRELIMINARY

STAFF RECOMMENDATION: Staff recommends adoption of the Negative Declaration and Order No. R1-2004-0015.

¹ A separate order for timber harvest activities on non-federal land is currently being developed and is tentatively scheduled for the May 12, 2004, Regional Board meeting.